

REMARKS

This is in full and timely response to the above-identified Office Action. The above listing of the claims supersedes any previous listing. Favorable reexamination and reconsideration are respectfully requested in view of the preceding amendments and the following remarks.

In this response, claim 17 is amended via the inclusion of the subject matter of claim 16.

The withdrawal of the allowability of claim 8 is noted – however the basis of the withdrawal is challenged. The absence of limitations are held to create a change in concept. How is this possible? The absence of the limitations of claims 6 and 7 broadens claim 8 it does not change the concept of what is disclosed therein.

Further, since the restriction requirement is based on different concepts being defined by different claims, and the claims of Groups I and II are held to be patentably distinct (viz., different inventions) because they define different concepts - then based on the Examiner's position with respect to claim 8, it is submitted that claim 8 as it currently stands and claim based on a combination of claims 8, 6 and 7 would have to be patentably distinct from one another and therefore presentable in two separate applications and possibly patentable independent of one another.

While this would seriously appear to be double patenting, the position taken by the Examiner would, of course, deny the Patent Office the right to make such an assertion and demand a terminal disclaimer and therefore suborn very possible double patenting.

The Examiner reminded that the office action states that difference such as "the inventive concept of a rod traversing the horizontal surface" and "materials affixed along vertical surfaces" establish patentable distinctions. The applicants respectfully demand that the same standards of patentable distinction be applied to any art cited against the claims – if not, then there is an impermissible double standard of patentability being established. Even if they were not asserted to be distinct inventions and merely species,

then still the requirement that they be patentably distinct remains.

The stated basis for withdrawing the indication of allowability of at least two claims is therefore deemed totally without merit. Nevertheless, the response is made without traverse and the Patent Office will have to live with the Examiner's position with respect to the above mentioned patentable distinctions and permit the potential filing divisional applications with total protection under 35 USC § 121.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

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